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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,106	02/11/2004	William R. Sharpe	6867-1A	1241
7590	09/01/2004		EXAMINER	
Mr. Ian Fincham McFadden, Fincham Suite 606 225 Metcalfe Street Ottawa, ON K2P 1P9 CANADA			ABBOTT, YVONNE RENEE	
			ART UNIT	PAPER NUMBER
			3644	
DATE MAILED: 09/01/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/775,106	SHARPE, WILLIAM R.
	Examiner	Art Unit
	Yvonne R. Abbott	3644

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 11 February 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6 and 8 is/are rejected.
- 7) Claim(s) 7 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>3/22/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 4 it is unclear whether or not in line 3, "an" should be changed to --said--(i.e. whether there is an additional entrance and exit to the one already recited in claim 2).

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Campbell (3,227,138). Campbell shows a pet toilet including a housing having opposed walls, an entrance and an exit into and out of said housing, a base in said housing, means (19, 20) for dispensing liquid into the interior of said enclosure to cleanse said walls and said base, and a discharge system adapted to dispose solid and liquid animal waste from said base, wherein said discharge system includes a movable member (9) in said base movable between an open position and a closed position, and means (10) for moving

said movable member between said open and said closed positions to permit discharge of animal waste from said base when said movable member is in said open position.

4. Claims 1, 2, 5, 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Temel (4,011,836). Temel shows a pet toilet comprising: a) a housing including a base, an entrance and an exit, and opposed side walls, b) a flushing system including at least one water nozzle (32) mounted by said housing adapted to spray water onto the base of said housing, c) at least one other water nozzle (32') mounted to spray said side walls; d) a sensing means (260) adapted to detect the ingress and egress of an animal into said housing, e) a drainage outlet in said base (not shown); a movable drain cover member or pivotal floor (11) comprised of slats movable between upper and lower positions above the plane of the base and operatively associated with said drainage outlet, motor (240) for moving said drain cover member between said upper and lower positions, and said means for moving said drain cover member being in operative association with said sensing means whereby when said sensing means detects the egress of an animal from said housing, said sensing means sends and receives signals to the flush system and is effective to actuate said means for moving said drain cover member and to actuate said flush system.

5. Claims 1, 2, 3, 5, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Temel (3,842,803). Temel shows a pet toilet comprising: a) a housing including a base, an entrance and an exit, and opposed side walls, b) a flushing system including at least one water nozzle (32) mounted by said housing adapted to spray

water onto the base of said housing, c) at least one other water nozzle (32') mounted to spray said side walls; d) a sensing means (col. 5, lines 23-26) adapted to detect the ingress and egress of an animal into said housing, e) a drainage outlet in said base (13); a movable drain cover member or pivotal floor (11) comprised of slats (15) movable between upper and lower positions above the plane of the base and operatively associated with said drainage outlet, hydraulically actuated piston (29) for moving said drain cover member between said upper and lower positions, and said means for moving said drain cover member being in operative association with said sensing means whereby when said sensing means detects the egress of an animal from said housing, said sensing means sends and receives signals to the flush system and is effective to actuate said means for moving said drain cover member and to actuate said flush system; wherein the drainage outlet (14) is capable of being connected to a residential drainage system.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kramer (2,204,416) in view of Loctin (4,729,342). Kramer shows an animal toilet including a

housing having opposed walls, an entrance and an exit into and out of said housing, a base in said housing, means for dispensing liquid into the interior or said enclosure to cleanse said base, and a discharge system adapted to dispose solid and liquid animal waste from said base; and a discharge system having a movable member (18) in said base movable between an open position and a closed position, and means for moving said movable member between said open and said closed positions to permit discharge of animal waste from said base when said movable member is in said open position. Kramer, however, does not show that the liquid is dispensed to cleanse the walls of the housing. Loctin teaches a pet toilet having opposed walls, an entrance and an exit into and out of said housing, a base in said housing, means for dispensing liquid into the interior or said enclosure to cleanse the walls and said base by means of nozzles (11,12), and a discharge system adapted to dispose solid and liquid animal waste from said base. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide additional spray nozzles to spray the walls of the housing as taught by Loctin, and as is disclosed by Applicant that such mechanisms are conventional in order to thoroughly clean the housing since it is probable that some animal urine or waste will get on the walls as well as the base.

Allowable Subject Matter

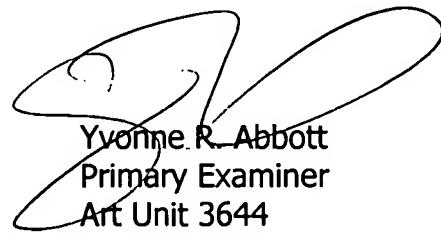
8. Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

9. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne R. Abbott whose telephone number is (703)308-2866. The examiner can normally be reached on Mon-Thurs 9:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael J. Carone can be reached on (703)306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Yvonne R. Abbott
Primary Examiner
Art Unit 3644